

Message

From: Lloyd, Matthew [Lloyd.Matthew@epa.gov]
Sent: 10/9/2018 12:19:48 PM
To: Alwood, Jim [Alwood.Jim@epa.gov]; Muneer, Alie [muneer.alie@epa.gov]; Malagon, Hector [Malagon.Hector@epa.gov]
Subject: RE: P-18-0169 PPE question

Hi Alie,

I didn't reply to this earlier because Jim's comments sum up the issue nicely.
I also saw Iris's email and she has a point.

If there are disagreements/issues with the health it would be useful to have the risk assessor there, but if the issue is only the OSHA/TSCA "discrepancies", then CCD will be able to handle that on our own.

Matt Lloyd, CIH
NCMB/CCD
OPPT
202-564-6031

From: Alwood, Jim
Sent: Wednesday, October 03, 2018 3:45 PM
To: Muneer, Alie <muneer.alie@epa.gov>; Malagon, Hector <Malagon.Hector@epa.gov>; Lloyd, Matthew <Lloyd.Matthew@epa.gov>
Subject: RE: P-18-0169 PPE question

Sounds good but a couple of clarifications –

If they want to comply with TSCA regulations they need to consider EPA's findings. They can always dispute EPA findings but they can't ignore or override them based on OSHA regulations. That is if they want an outcome they can live with for the PMN.

They would not be in violation of 40 CFR 1910.134 if they did not use the respirators specified under TSCA requirements. That's a TSCA violation. The reference in 40 CFR part 721.63 to the requirements of 1910.134 is that the company should comply with those regulations. Those regulations do not specify respirators.

Good idea to have the meeting to discuss and clarify where the OSHA and TSCA requirements appear to be in conflict and result in different outcomes. It happens all the time.

Jim Alwood
Chemical Control Division
EPA East
1200 Pennsylvania Ave. NW
Room 4133J, Mail Code 7405M
Washington, DC 20460
202 564-8974
Fax 202 564 9490

From: Muneer, Alie
Sent: Wednesday, October 3, 2018 3:20 PM

To: Alwood, Jim <Alwood.Jim@epa.gov>; Malagon, Hector <Malagon.Hector@epa.gov>; Lloyd, Matthew <Lloyd.Matthew@epa.gov>

Subject: FW: P-18-0169 PPE question

Hello all: The submitter for P-18-0169 is saying that they should not be subject to APF 50 for non-spray applications and APF 1000 for spray applications because they, not EPA, have the authority under 40 CFR 1910.132(d) to conduct a hazard assessment and therefore they do not have to consider EPA's results from the human health report. They also say that they would be in violation of 40 CFR 1910.134 if they accepted APF 50 and APF 1000 and I told them that they would not be; instead, they would be in violation of 40 CFR 1910.134 if they did not use APF 50 for non-spray applications and APF 1000 for spray applications and I told them that Part 721 includes info on 40 CFR 1910.134. I told them that we found hazard to workers via inhalation so PPE is required and went over all of the exposures, hazards and risks. They requested a conference call to go over the respirator requirements for this case. I'm inviting the RAD human health assessor since the submitter's chemist will likely have questions about the human health hazard.

Pls see below email chain for further details.

I checked everyone's calendar (including RAD's) and everyone is available on Tuesday, Oct 11, 9am to 10am. I left a v/m to the submitter asking if they are available the same time and day. I will let everyone know.

Once the date and time is confirmed, I'll send a calendar invite.

If anyone has anything to share on this topic, pls let me know.

Thanks, Alie



Alie Muneer

USEPA Headquarters | OCSPP OPPT Chemical Control Division | WJC Building-East | 1200 Pennsylvania Avenue, N. W. |
Mail Code: 7405M | Washington, DC 20460 | Ph# 202 564 6369 | Fax: 202 564 9490 | Email: muneer.alie@epa.gov | Office hours:
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From: Christopher Reuther [<mailto:creuther@hauthaway.com>]

Sent: Tuesday, October 02, 2018 3:53 PM

To: Muneer, Alie <muneer.alie@epa.gov>; Kevin Gauthier <KGauthier@hauthaway.com>

Cc: John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Alie,

I apologize, I meant 1910.132(d) as referenced below. The letter, is just that, a letter of interpretation how OSHA views the use of PPE and considerations given to Engineering and Administrative Controls are given priority over that of using PPE. It is required of us to employ engineering controls such as ventilation before defaulting to respiratory protection. An example would be transferring flammables such as gasoline- if proper engineering controls are not used supplied air may be required, but if proper engineering controls and administrative controls are implemented you may not need any respiratory protection.

<https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.132>

1910.132(d)

Hazard assessment and equipment selection.

1910.132(d)(1)

The employer shall assess the workplace to determine if hazards are present, or are likely to be present, which necessitate the use of personal protective equipment (PPE). If such hazards are present, or likely to be present, the employer shall:

1910.132(d)(1)(i)

Select, and have each affected employee use, the types of PPE that will protect the affected employee from the hazards identified in the hazard assessment;

Please also consider the following letter of interpretation stating specifics of each site need to be taken into consideration.

<https://www.osha.gov/laws-regs/standardinterpretations/1998-11-11-0>

Thank you,
Chris

Christopher Reuther
C.L. Hawthaway
Environmental, Health and Safety Manager
638 Summer Street
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Hawthaway

From: Muneer, Alie [<mailto:muneer.alie@epa.gov>]

Sent: Tuesday, October 02, 2018 3:38 PM

To: Christopher Reuther <creuther@hawthaway.com>; Kevin Gauthier <KGauthier@hawthaway.com>

Cc: John Zermani <JZermani@hawthaway.com>; Ted Johnson <TJohnson@hawthaway.com>

Subject: RE: P-18-0169 PPE question

Hello Chris: Pls provide the weblink to 29 CFR 1910.332(d). The weblink below references other regulations and it's a letter. I tried to look up 29 CFR 1910.332(d) on the OSHA e-CFR and could not find it.

Per 40 CFR 721.63(a)(4):

Whenever a substance is identified in subpart E of this part as being subject to this section, a significant new use of the substance is any manner or method of manufacturing, importing, or processing associated with any use of the substance without establishing a program whereby each person who is reasonably likely to be exposed to the chemical substance by inhalation in the work area in one or more of the forms listed in paragraph (a)(6) of this section and cited in subpart E of this part for the chemical substance, is provided with, and is required to wear, at a minimum, a NIOSH- approved respirator from one of the categories listed in paragraph (a)(5) of this section, and the respirator is used in accordance with 29 CFR 1910.134 and 30 CFR part 11.

Per hazard assessment/human health report, and APF 50 for nonspray applications and APF 1000 for spray applications are required to meet 29 CFR 1910.134 as stated in 40 CFR 721.63(a)(4).

Kevin and I talked and it may be best to move this conversation to a conference call so we all can discuss this further detail. I told Kevin that I will send a meeting invite later today or tomorrow.

Does Hawthaway use Skype?

Alie Muneer



Alie Muneer

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From: Christopher Reuther [<mailto:creuther@hauthaway.com>]
Sent: Tuesday, October 02, 2018 2:41 PM
To: Muneer, Alie <muneer.alie@epa.gov>; Kevin Gauthier <KGauthier@hauthaway.com>
Cc: John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>
Subject: RE: P-18-0169 PPE question

Good Afternoon Alie,

We appreciate your hazard assessment for a specific handling and use of this type of material, and we can use this to perform our own Hazard Assessment for manufacturing this material. Per OSHA it is required by the employer (29 CFR 1910.332(d)) to perform a hazard assessment. From there it is upon us as the manufacturer and employer to adequately protect the employees by use of Engineering Controls, Administrative Controls and then supplement this with Personal Protective Equipment per OSHA (please see below). We take this very serious and have been discussing this with a Certified Industrial Hygienist in order to properly protect our employees during the manufacturing process. If at all possible it is imperative to control hazards to minimize the use of PPE because it can in many times create other hazards. Hazard assessments and how to control any and all hazards that are present are a case by case basis and need to be handled as such and we are committed to using the appropriate respiratory protection per 29 CFR 1910.134. Please let me know if you have any questions.

<https://www.osha.gov/laws-regs/standardinterpretations/2002-06-24-0>

Christopher Reuther
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Hauthaway

From: Muneer, Alie [<mailto:muneer.alie@epa.gov>]

Sent: Tuesday, October 02, 2018 2:00 PM

To: Kevin Gauthier <KGauthier@hauthaway.com>

Cc: Christopher Reuther <creuther@hauthaway.com>; John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

One more thing: You would be in violation of 29 CFR 1910 if you did not use APF 50 for non-spray applications and APF 1000 for spray applications. This is based on the hazard assessment.



Alie Muneer

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From: Muneer, Alie

Sent: Tuesday, October 02, 2018 1:56 PM

To: 'Kevin Gauthier' <KGauthier@hauthaway.com>

Cc: 'Christopher Reuther' <creuther@hauthaway.com>; 'John Zermani' <JZermani@hauthaway.com>; 'Ted Johnson' <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Not LVE substance, PMN substance.



Alie Muneer

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From: Muneer, Alie

Sent: Tuesday, October 02, 2018 1:55 PM

To: 'Kevin Gauthier' <KGauthier@hauthaway.com>

Cc: Christopher Reuther <creuther@hauthaway.com>; John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Hello Kevin: EPA has done a hazard assessment on the LVE substance. The basis of the APF 50 for non-spray applications and APF 1000 for spray application was our hazard assessment. The hazard assessment (i.e., redacted human health report) was faxed to you on an earlier date. Do you have any questions on the human health report/hazard assessment that the APFs are based on?

I will check on number 2 but I believe it would have to be on an order (consent order, SNUR, etc.).

Alie Muneer



Alie Muneer

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From: Kevin Gauthier [<mailto:KGauthier@hauthaway.com>]

Sent: Tuesday, October 02, 2018 12:04 PM

To: Muneer, Alie <muneer.alie@epa.gov>

Cc: Christopher Reuther <creuther@hauthaway.com>; John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Hello Alie,

- 1) Respiratory protection: With regard to the requirement of an APF of 50, we do not concede to this requirement since part of complying with OSHA 29CFR1910 is to perform a hazard assessment prior to implementing any personal protective equipment, accepting this requirement as is could put us in violation of 29CFR1910. Based on the material used in the manufacturing, the engineering controls and administrative controls in place our hazard assessment at this time indicates that an APF of 10 is compliant with OSHA standards. We as the manufacturer will not be spraying this material or any of the chemical components used in the manufacturing process.
- 2) No consumer use: This product is intended for industrial use only. Would we be compliant by adding a statement to Section VIII Exposure Controls/Personal Protection in the SDS?

We appreciate the opportunity for a conference call to discuss.

Regards,

Kevin

From: Muneer, Alie [<mailto:muneer.alie@epa.gov>]

Sent: Wednesday, September 26, 2018 3:12 PM

To: Kevin Gauthier <KGauthier@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Kevin: What is the status? Will Hauthaway send a list of questions to EPA? Should there still be a conf call?
Alie



Alie Muneer

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From: Muneer, Alie

Sent: Friday, September 21, 2018 3:44 PM

To: Kevin Gauthier <KGauthier@hauthaway.com>

Cc: Christopher Reuther <creuther@hauthaway.com>; John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: Re: P-18-0169 PPE question

Kevin:

For use of respiratory protection (NIOSH certified respirator with APF 1000 for spray applications and APF 50 for no spray applications), the following are the regulations:

"(i) *Protection in the workplace.* Requirements as specified § 721.63(a)(1), (a)(2)(i), (iii), (iv), (a)(3), (a)(4), (a)(5)(respirators must provide a National Institute for Occupational Safety and Health with assigned protection factor of at least 50), when determining which persons are reasonably likely to be exposed as required for §721.63(a)(1) and (4), engineering control measures (e.g., enclosure or confinement of the operation, general and local ventilation) or administrative control measures (e.g., workplace policies and procedures) shall be considered and implemented to prevent exposure where feasible), (a)(6)(v), (vi), (particulate), (combination of gas/vapor and particulate) and (c)."

No consumer use ("use in a consumer product "found in § 721.80 (o)) is no use of a chemical substance that is directly, or as part of a mixture, sold or made available to consumers for their use in or around a permanent or temporary household or residence, in or around a school, or in recreation.

Pls let me know if you have any questions.

Regards, Alie Muneer

From: Kevin Gauthier <KGauthier@hauthaway.com>

Sent: Wednesday, September 19, 2018 1:43 PM

To: Muneer, Alie <muneer.alie@epa.gov>

Cc: Christopher Reuther <creuther@hauthaway.com>; John Zermani <JZermani@hauthaway.com>; Ted Johnson <TJohnson@hauthaway.com>

Subject: RE: P-18-0169 PPE question

Hello Alie,

Please see our comments in red below.

Regards,

Kevin

From: Muneer, Alie [<mailto:muneer.alie@epa.gov>]
Sent: Wednesday, September 19, 2018 8:37 AM
To: Kevin Gauthier <KGauthier@hauthaway.com>
Cc: Christopher Reuther <creuther@hauthaway.com>
Subject: RE: P-18-0169 PPE question

Is there a status update to this?

From: Muneer, Alie
Sent: Monday, September 17, 2018 4:16 PM
To: 'Kevin Gauthier' <KGauthier@hauthaway.com>
Cc: Christopher Reuther <creuther@hauthaway.com>
Subject: RE: P-18-0169 PPE question

Kevin: The stipulations are:

- Use of dermal protection (including impervious gloves) Agree
- Use of respiratory protection (NIOSH certified respirator with APF 1000 for spray applications and APF 50 for no spray applications) As the manufacturer of this product we do not engage in the application process of this material. We currently use APRs with an APF of 10 in concert with active ventilation for the manufacturing of our products where industrial hygiene monitoring requires. It is imperative in order to maintain compliance with OSHA standards to evaluate hazards and approach the mitigation of each first with engineering controls and administrative controls before relying on personal protective equipment.
- No consumer use We would like you to clarify “consumer use”, we are manufacturing this for industrial sales and use.
- Manufacturing (including import) the PMN substance with triethylamine concentration no greater than 4% by weight Agree
- APF 1000 for spray applications (please see bullet 2)
- APF 50 for no-spray applications (please see bullet 2)



Alie Muneer

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